

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 18-37

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A RESTAURANT WITH DRIVE THROUGH, LOCATED IN THE WESTFORK CROSSING ADDITION, BLOCK A, LOT 5, CONSISTING OF 2.22 ACRES, MORE OR LESS, IN THE M.E.P. & P.R.R. SURVEY, ABSTRACT NO. 1476, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS; DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

**WHEREAS**, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that the Zoning Ordinance should be amended; and

**WHEREAS**, the Town of Prosper, Texas ("Prosper") has received a request from Northwest 423/380, L.P. ("Applicant") for a Specific Use Permit (SUP) for a restaurant with drive through, in the Westfork Crossing Addition, Block A, Lot 5, zoned Commercial, consisting of 2.22 acres of land, more or less, in the M.E.P. & P.R.R. Survey, Abstract No. 1476, in the Town of Prosper, Denton County, Texas, and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

**WHEREAS**, the Town Council has investigated and determined that the facts contained in the request are true and correct; and

**WHEREAS**, all legal notices required to grant a Specific Use Permit (SUP) have been given in the manner and form set forth by law, Public Hearings have been held, and all other requirements of notice and completion of such procedures have been fulfilled; and

**WHEREAS**, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS:**

### **SECTION 1**

**Findings Incorporated.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

### **SECTION 2**

**Specific Use Permit Granted.** The Town's Zoning Ordinance is amended as follows: Applicant is granted a Specific Use Permit (SUP) for a restaurant with drive through, in the Westfork Crossing Addition, Block A, Lot 5, zoned Commercial, consisting of 2.22 acres of land, more or less, in the M.E.P. & P.R.R. Survey, Abstract No. 1476, in the Town of Prosper, Denton County, Texas, and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Specific Use Permit shall conform to, and comply with the concept plan, attached hereto as Exhibit "B," which is incorporated herein for all purposes as if set forth verbatim. Approval of the Specific Use Permit is subject to the following conditions:

1. Approval of the Site Plan, the Landscape Plan, and the Façade Plan by the Town Council.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

### **SECTION 3**

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

### **SECTION 4**

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

### **SECTION 5**

Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

### **SECTION 6**

Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

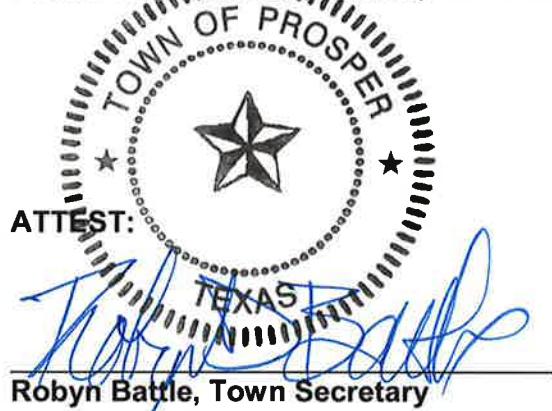
## SECTION 7

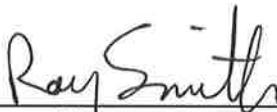
Savings/Repealing Clause. Prosper's Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

## SECTION 8

Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

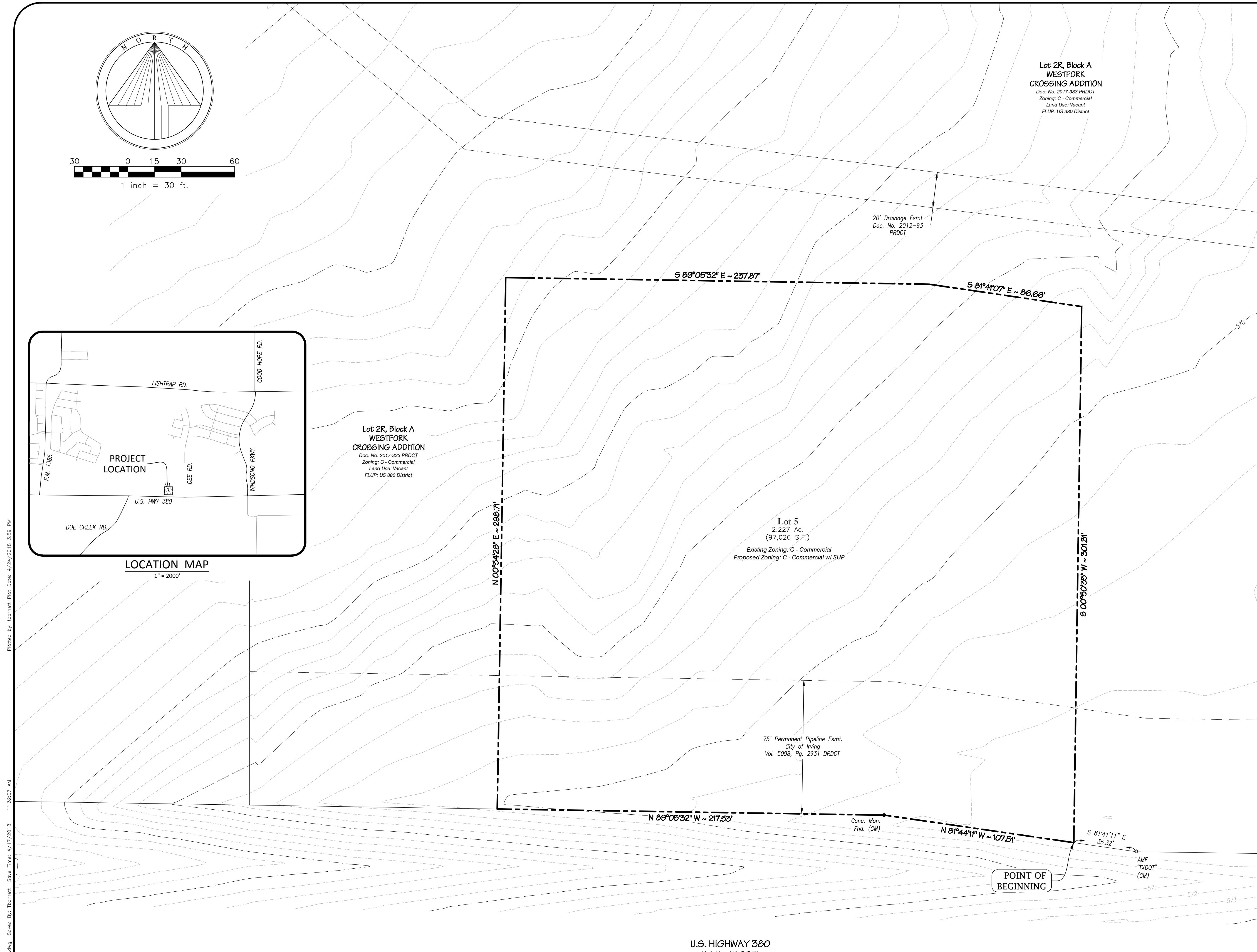
**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE  
TOWN OF PROSPER, TEXAS, ON THIS 22ND DAY OF MAY, 2018.**



  
Ray Smith, Mayor

**APPROVED AS TO FORM AND LEGALITY:**

  
Terrence S. Welch, Town Attorney



#### METES AND BOUNDS DESCRIPTION

BEING a tract of land situated in the M.E.P. & P.R.R. Survey, Abstract No. 1476, Town of Prosper, Denton County, Texas, the subject tract being a portion of Lot 2R, Block A, Westfork Crossing Addition, according to the plat recorded in Document No. 2017-333 of the Plat Records, Denton County, Texas (PRDCT), the subject tract being more particularly described as follows:  
 BEGINNING at a point on the north line of U.S. Highway 380, a variable width public right-of-way, for the southeast corner of proposed Lot 5, and from which an aluminum TxDOT monument found bears S 81°41'11" E, 35.32' feet;  
 THENCE N 81°44'41" W, 107.51 feet along the common line thereof to a concrete monument found;  
 THENCE N 89°05'32" W, 217.53 feet;  
 THENCE N 00°54'28" E, 298.71 feet;  
 THENCE S 89°05'32" E, 237.87 feet;  
 THENCE S 81°41'07" E, 86.66 feet;  
 THENCE S 00°50'35" W, 301.31 feet to the POINT OF BEGINNING with the subject tract containing 97,026 square feet or 2.227 acres of land.

#### SURVEYOR'S CERTIFICATE

That I, Darren K. Brown, of Spiars Engineering, Inc., do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the Town of Prosper, Texas.  
 Dated this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

DARREN K. BROWN, R.P.L.S. NO. 5252

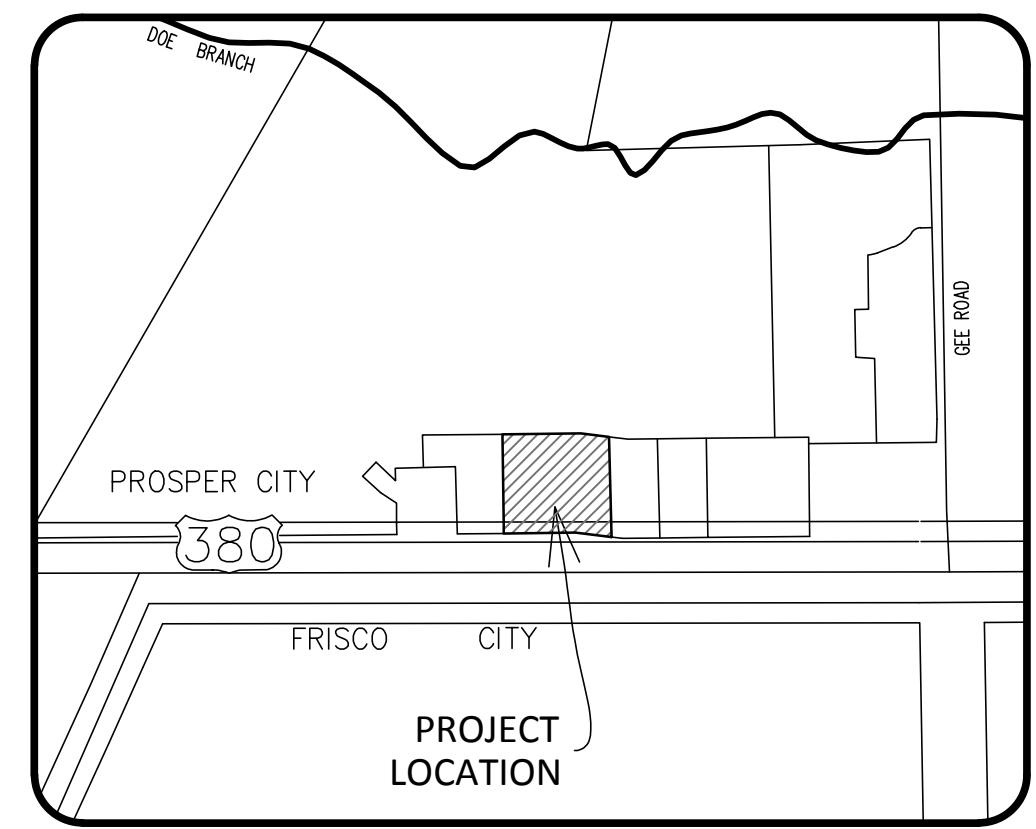
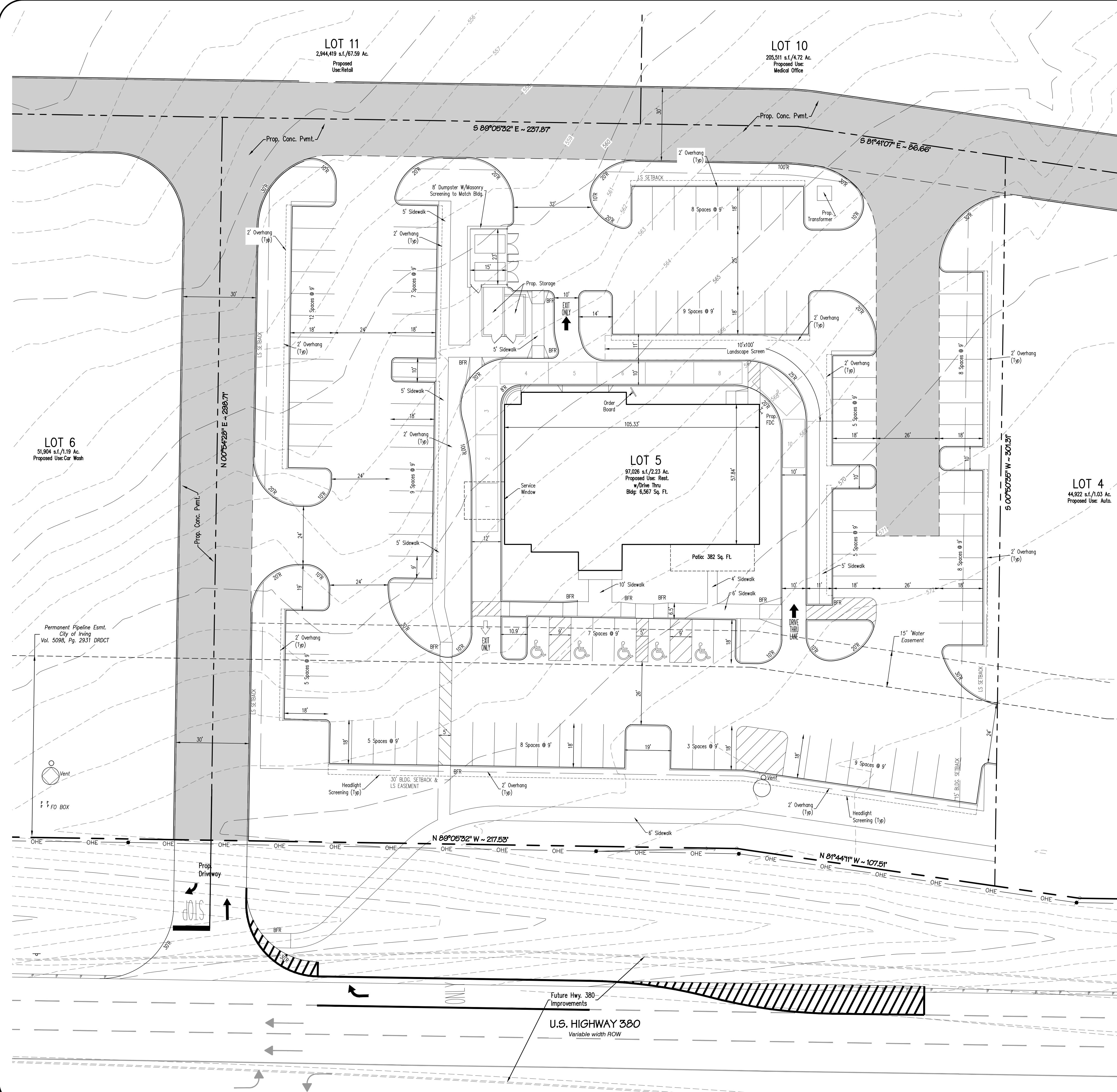


TOWN OF PROSPER CASE NO. S18-0004  
Exhibit A

## WESTFORK CROSSING ADDITION

BLOCK A, LOT 5  
BEING 2,227 ACRES OF LAND  
IN THE M.E.P. & P.R.R. SURVEY, ABSTRACT NO. 1476  
TOWN OF PROSPER, DENTON COUNTY, TEXAS

OWNER / APPLICANT  
Northwest 423/380, Ltd.  
7001 Preston Rd., Ste. 410  
Dallas, Texas 75205  
Telephone: (214) 224-4644  
Contact: Robert V. Dorazil  
TBPE No. F-2121 / TBPLS No. F-10043100  
Contact: Kevin Wier



A diagram of a pendulum. At the top is a black flag-like shape. A vertical line extends downwards from the flag, ending in a circle representing the bob. Below the bob is a horizontal line with two vertical ends, forming a circle with a horizontal line through it, representing the pendulum's arc. At the bottom is a teardrop-shaped weight. Below the pendulum is a scale bar. The scale bar has numerical markings at 20, 0, 10, 20, and 40. Below the scale bar is the text "1 inch = 20 ft."

### Site Data Summary Table

<u>SITE DATA</u>	<u>LOT 5, BLOCK A</u>
Zoning	C – Commercial
Proposed Use	Restaurant W/Drive Thru
Lot Area	2.23 Ac. (97,026 Sq. Ft.)
Building Area	6,567 Sq. Ft. 382 Sq. Ft. (Patio)
Building Height:	1 Story, 40' Max.
Lot Coverage	4.8%
Floor Area Ratio	0.048:1
Parking Ratio:	1 Sp./100 Sq. Ft.
Total Parking Required	70 Sp.
Total Parking Provided	109 Sp. (Incl. 5 HC)
Total Impervious Surface	61,176 Sq. Ft.
Required Landscape Area	15 Sq. Ft Per Pkg Sp=990 Sq. Ft.
Provided Landscape Area	8,299 Sq. Ft.

## Town of Prosper Site Plan Notes:

1. Dumpsters and trash compactors shall be screened in accordance of the Zoning Ordinance.
2. Open storage, where permitted, shall be screened in accordance with the Zoning Ordinance.
3. Outdoor lighting shall comply with the lighting and glare standards contained within the Zoning Ordinance and Subdivision Regulation Ordinance.
4. Landscaping shall conform to landscape plans approved by the Town.
5. All elevations shall comply with the standards contained within the Zoning Ordinance.
6. Buildings of 5,000 square feet or greater shall be 100% fire sprinkled. Alternative fire protection measures may be approved by the Fire Department.
7. Fire lanes shall be designed and constructed per town standards or as directed by the Fire Department.
8. Two points of access shall be maintained for the property at all times.
9. Speedbumps/humps are not permitted within a fire lane.
10. Handicapped parking areas and building accessibility shall conform to the Americans with Disabilities Act (ADA) and with the requirements of the current, adopted uniform Building Code.
11. All signage is subject to Building Official approval.
12. All fences and retaining walls shall be shown on the site plan and are subject to Building Official approval.
13. All exterior building materials are subject to Building Official approval and shall conform to the approved facade plan.
14. Sidewalks of not less than six (6') feet in width along thoroughfares and five (5') in width along collectors and residential streets, and barrier free ramps at all curb crossings shall be provided per Town standards.
15. Approval of the site plan is not final until all engineering plans are approved by the Engineering Department.
16. Site plan approval is required prior to grading release.
17. All new electrical lines shall be installed and/or relocated underground.
18. All mechanical equipment shall be screened from public view in accordance with the Zoning Ordinance.
19. All landscape easements must be exclusive of any other type of easement.
20. Impact fees will be assessed in accordance with the land use classification(s) identified on the site data summary table; however, changes to the proposed land use at the time of CO and/or finish out permit may result in additional impact fees and/or parking requirements.
21. The approval of a site plan shall be effective for a period of eighteen (18) months from the date of approval by the Planning & Zoning Commission, at the end of which time the applicant must have submitted and received approval of engineering plans & building permits. If the engineering plans are not approved, together with any preliminary site plan for the property, is null and void.

## LEGEND

## **FIRELANE, ACCESS, DRAINAGE & UTILITY EASEMENT**

Note:

1. All curb radii are 2' or 5' unless otherwise noted.
2. All dimensions are to the face of curb or the edge of building.

CASE No. - S18-0004  
EXHIBIT 'B'

**EXHIBIT B**  
**WESTFORK CROSSING**  
**BLOCK A, LOT 5**  
**2.23 Acres**  
**SITUATED IN THE**  
**A. JAMISON SURVEY, ABSTRACT NO. 672**  
**OWN OF PROSPER, DENTON COUNTY, TEXAS**

OWNER / APPLICANT  
Northwest 423/380 LP  
7001 Preston Road, Suite 410  
Dallas, Texas 75205  
Telephone (214) 224-4600  
Contact: Robert Dorazil

ENGINEER / SURVEYOR  
Spiars Engineering, Inc.  
TBPE No. F-2121  
765 Custer Road, Suite 100  
Plano, TX 75075  
Telephone: (972) 422-0077  
Contact: Kevin Wier